

UNITED STATES DISTRICT COURT
Northern District of California

GREGORY BENDER,

Plaintiff,

v.

NOKIA INC.,

Defendant.

No. C 09-01247 MMC (MEJ)

**ORDER RE JOINT DISCOVERY
LETTER (DKT. #54)**

Before the Court is the joint discovery dispute letter (“Joint Letter”) filed by Plaintiff Gregory Bender (“Plaintiff”) and Defendant Nokia Inc. (“Defendant”). (Dkt. #54.) Defendant seeks an order striking Plaintiff’s infringement contentions or alternatively, limiting their scope and compelling Plaintiff to amend his contentions to comply with Patent Local Rule (“Rule”) 3-1.

Plaintiff’s infringement contentions have been the subject of much dispute of late. Plaintiff has filed over twenty lawsuits¹ alleging infringement on U.S. Patent No. 5,103,188 (the “‘188 Patent”) and judges in this district, including the undersigned, have repeatedly found that his infringement contentions lack the specificity necessary to comply with Rule 3-1. In this Court’s most recent Order on the matter, *Bender v. Freescale Semiconductor, Inc.*, C 09-1156 PJH, 2010 WL 1689465 (N.D. Cal. April 26, 2010), the undersigned held that Plaintiff’s Secondary Infringement Contentions did not comply with Rule 3-1. There, the defendant asked for an order striking Plaintiff’s Secondary Infringement Contentions or alternatively, to limit further amendments to the specific products already charted, exactly as Defendant has done here. *Freescale*, at *1. The Court did not strike Plaintiff’s Secondary Infringement Contentions, but limited further amendments

¹See *Bender v. LG Electronics U.S.A., Inc.*, No. C 09-02114 JF, 2009 WL 4730900, at *1 n.1 (N.D. Cal. Dec. 7, 2009) (collecting cases filed by Plaintiff).

1 to the 15 products charted, and the undersigned stated that the motion to strike would be revisited
2 should the amendments fail to comply with Rule 3-1. *Id.* at *4.

3 Here, Plaintiff's Infringement Contentions are identical to his Secondary Infringement
4 Contentions in the Freescale matter, with the exception of Defendant's name.² Because Plaintiff has
5 not yet had an opportunity to amend his Infringement Contentions in the instant case, the Court will
6 allow him to do so. However, the Court limits Plaintiff to the single product specifically charted in
7 his Infringement Contentions. *See Freescale*, at *7.

8 For the foregoing reasons, the Court hereby DENIES Defendant's motion to strike all of
9 Plaintiff's Infringement Contentions, and GRANTS Defendant's motion to compel Infringement
10 Contentions limited to the one product specifically charted therein. As such, Plaintiff is ORDERED
11 to amend his Infringement Contentions in accordance with Rule 3-1 and serve them upon Defendant
12 within 30 days following issuance of this Order.

13 **IT IS SO ORDERED.**

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15 Dated: June 17, 2010

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18 Maria-Elena James
19 Chief United States Magistrate Judge
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27 ²The Infringement Contentions here are Exhibit A to Dkt. #54. The Secondary Infringement
28 Contentions in the Freescale matter are Exhibit B to Dkt. #58.)